

AMENDMENTS TO THE CALIFORNIA RULES OF COURT AND
STANDARDS OF JUDICIAL ADMINISTRATION
Adopted by the Judicial Council of California on December 10, 2004,
effective December 10, 2004, and January 1, 2005

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**Rule 2211. ~~Trial court labor relations disputes writ~~ Enforcement of agreements—
petitions (Gov. Code, §71639.1) Code, §§ 71639.5 and 71825.2)**

- (a) **[Applicability]** This rule applies to petitions filed under ~~subdivisions (c) and (d)~~ subdivision (a) of Government Code ~~section 71639.1~~ sections 71639.5 and 71825.2.

(Subd (a) amended effective December 10, 2004.)

(b) [Assignment of Court of Appeal justice to hear the petition]

- (1) The petition must state the following on the first page, below the case number, in the statement of the character of the proceeding (see rule 201(f)(6)): “~~Writ~~ Petition filed under Government Code ~~sections 71639.1~~ sections 71639.5 and 71825.2—assignment of Court of Appeal justice required.”
- (2) When the petition is filed, the clerk of the court must immediately request of the Judicial Assignments Unit of the Administrative Office of the Courts the assignment of a hearing judge from the panel established under subdivision (e).
- (3) The judge assigned to hear the petition in the superior court must be a justice from a Court of Appeal for a district other than the district for that superior court.

(Subd (b) amended effective December 10, 2004.)

(c) [Superior court hearing]

- (1) The superior court must hear and decide the petition on an expedited basis and must give the petition priority over other matters to the extent permitted by law and the rules of court.
- (2) The petition must be heard by a judge assigned by the Chief Justice from the panel of hearing judges established under subdivision (e).

- (d) **[Appeal]** An appeal of the superior court decision must be heard and decided on an expedited basis in the Court of Appeal for the district in which the petition was heard and must be given priority over other matters to the extent permitted by law and the rules of court. The notice of appeal must state the following on the first page, below the case number, in the statement of the

character of the proceeding (see rule 201(f)(6)): “Notice of Appeal on petition filed under Government Code sections 71639.5 and 71825.2—expedited processing requested.”

(Subd (d) amended effective December 10, 2004.)

(e) **[Panel of hearing judges]** The panel of judges who may hear the petitions in the superior court must consist of Court of Appeal justices selected by the Chief Justice as follows:

- (1) The panel must include at least one justice from each district of the Court of Appeal.
- (2) Each justice assigned to hear a petition under (c)(2) must have received training on hearing the petitions as specified by the Chief Justice.

Rule 2211 amended effective December 10, 2004; adopted effective January 1, 2001.

Rule 6.105. Allocation of new fee, fine, and forfeiture revenue

(a) The Judicial Council must annually allocate 80 percent of the amount of fee, fine, and forfeiture revenue deposited in the Trial Court Improvement Fund pursuant to Government Code section 77205(a) that exceeds the amount of fee, fine, and forfeiture revenue deposited in the Trial Court Improvement Fund in fiscal year 2002–2003 to one or more of the following:

- (1) To the trial courts in the counties from which the increased amount is attributable;
- (2) To other trial courts to support trial court operations; or
- (3) For retention in the Trial Court Improvement Fund.

(b) The Administrative Office of the Courts must recommend a methodology for the allocation and must recommend an allocation based on this methodology. Upon approval of a methodology by the Judicial Council, the Administrative Office of the Courts must issue a Finance Memo setting forth the methodology adopted by the Judicial Council.

Rule 6.105 adopted effective December 10, 2004.

Rule 31.2. Sealed records

(a) ***

(b) Other in-camera proceedings

(1)–(4) ***

(5) The superior court clerk must prepare an index of any material sent to the reviewing court under (4), except confidential material relating to a request for funds under Penal Code section 987.9, showing the date and the names of all parties present at each proceeding, but not disclosing the substance of the sealed matter, and send the index:

(A) to the People, and

(B) to the defendant's appellate counsel or, if appellate counsel has not yet been retained or appointed, to the appellate project for the district.

(6) ***

(Subd (b) amended effective January 1, 2005.)

(c) ***

Rule 31.2 amended effective January 1, 2005; adopted effective January 1, 2004.

Rule 34.1. Contents and form of the record

(a)–(c) ***

(d) Form of record

The clerk's transcript and the reporter's transcript must comply with rule 9, but the indexes for the clerk's transcript must separately list all sealed documents in that transcript, and the indexes for the reporter's transcript must separately list all sealed reporter's transcripts with the date and the names of all parties present. The indexes must not list any confidential material relating to a request for funds under Penal Code section 987.9 or disclose the substance of any sealed matter.

(Subd (d) amended effective January 1, 2005.)

Rule 34.1 amended effective January 1, 2005; adopted effective January 1, 2004.

Rule 6.11. Executive and Planning Committee

(a)–(d) ***

(e) [Planning] The committee oversees the development and implementation of the council's long-range strategic plan by:

- (1) Recommending responses to forces and trends that are likely to affect the judiciary's operations and resources;
- (2) Planning and conducting the council's annual strategic planning meeting and related efforts; and
- (3) Collaborating with the Administrative Director of the Courts ~~and the Judicial Branch Budget Advisory Committee~~ regarding proposed judicial branch budgets, proposed allocation schedules, and related budgetary issues.

(Subd (e) amended effective January 1, 2005; previously amended effective January 1, 2002.)

(f) [Budget] The committee must ensure that proposed judicial branch budgets and related budgetary issues are brought to the Judicial Council in a timely manner and in a format that permits the council to establish funding priorities in the context of the council's annual program objectives, statewide policies, and long-range strategic plan. The Administrative Director of the Courts ~~and the Judicial Branch Budget Advisory Committee~~ assists the Executive and Planning Committee in carrying out this function, as directed by the Executive and Planning Committee and as otherwise provided in these rules.

(Subd (f) amended effective January 1, 2005; previously amended effective January 1, 2002.)

(g) ***

Rule 6.11 amended effective January 1, 2005; adopted effective January 1, 1999; previously amended effective January 1, 2002, and September 1, 2003.

Rule 6.45. Trial Court Budget Working Group

The Administrative Director of the Courts must appoint annually a Trial Court Budget Working Group to advise the director on trial court budget issues. The

working group must include trial court judicial officers and trial court executive officers reflecting the diversity of state trial courts including location, size, and adequacy of funding. The working group may also include others selected by the Administrative Director of the Courts.

Rule 6.45 repealed and adopted effective January 1, 2005.

Former rule

Former rule 6.45 related to the Judicial Branch Budget Advisory Committee.

Rule 6.101. Role of the Judicial Council and Administrative Office of the Courts

- (a) **[Purpose]** The purpose of this rule is to set forth the responsibilities of the Judicial Council, the Chief Justice, the Administrative Director of the Courts, and the Administrative Office of the Courts with respect to the judiciary's budget.

(Subd (a) amended effective January 1, 2005.)

- (b) ***

(c) [Authority of the Chief Justice and Administrative Director of the Courts]

- (1) The Chief Justice and the Administrative Director of the Courts may take the following actions, on behalf of the Judicial Council, with regard to any of the Judicial Council's recommended budgets for the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council, and the Habeas Corpus Resource Center:

(A) Make technical changes; and

(B) Make changes during negotiations with the legislative and executive branches consistent with the goals and priorities adopted by the Judicial Council. The Chief Justice and the Administrative Director of the Courts must advise the council of the results of the negotiations.

- (2) The Chief Justice and the Administrative Director of the Courts, on behalf of the Judicial Council, may allocate funding appropriated in the annual State Budget to the Supreme Court, the Courts of Appeal, the Judicial Council, and the Habeas Corpus Resource Center.

- (3) After the end of each fiscal year, the Administrative Director of the Courts must report to the Judicial Council on the actual expenditures from the budgets for the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council, and the Habeas Corpus Resource Center.

(Subd (c) adopted effective January 1, 2005.)

(e)(d) [Duties of Administrative Director] The Administrative Director of the Courts shall implement the directives of the Judicial Council and shall:

- (1) Develop policies and procedures for the creation and implementation of a yearly budget for the judiciary;
- (2) Present the judiciary's budget in negotiations with the Governor and the Legislature; and
- (3) Allocate to the trial courts, on behalf of the Judicial Council, a portion of the prior fiscal year baseline allocation budget for the trial courts following approval of the State Budget and before the allocation of state trial court funding by the Judicial Council. The portion of the prior fiscal year baseline allocation budget that may be so allocated is limited to the amount estimated to be necessary for the operation of the courts pending action by the Judicial Council, and may not exceed 25 percent of the prior fiscal year baseline allocation budget for each trial court. ~~The term "baseline budget" as used in this rule has the same meaning as in rule 6.45(b)(1).~~

(Subd (d) relettered effective January 1, 2005; adopted as subd (c) effective July 1, 1998; previously amended effective January 1, 2001.)

(d)(e) ***

(Subd (e) relettered effective January 1, 2005; adopted as subd (d) effective July 1, 1998.)

Rule 6.101 amended effective January 1, 2005; adopted as rule 2301 effective July 1, 1998; renumbered effective January 1, 1999; previously amended effective January 1, 2001.

Rule 6.620. Public access to administrative decisions of trial courts

(a) ***

(b) [Budget priorities] ~~The Judicial Branch Budget Advisory Committee (JBBAC)~~ Administrative Office of the Courts may request, on 30 court day's notice, recommendations from the trial courts concerning judicial branch

budget priorities. ~~JBBAC's~~ The notice must state that if a trial court is to make recommendations to the committee, the trial court must also give notice, as provided in subdivision (g), that interested members of the public may send input to the JBBAC Administrative Office of the Courts.

(Subd (b) amended effective January 1, 2005.)

(c)–(k) ***

Rule 6.620 amended effective January 1, 2005; adopted effective January 1, 2004.

Rule 6.711. Reimbursement of costs associated with homicide trials

(a) [Intent] The intent of this rule is to permit courts that meet certain criteria to request reimbursement of extraordinary costs of homicide trials.

(b) [Criteria] A court that requests reimbursement of extraordinary costs of a homicide trial must meet all the following criteria:

(1) Be located in a county with a population of 300,000 or less;

(2) Have incurred extraordinary costs of a homicide trial; and

(3) Demonstrate an actual need for reimbursement.

(c) [Submission] A request for reimbursement must be submitted by the court's presiding judge or executive officer to the Administrative Office of the Courts. All requests for reimbursement must comply with guidelines approved by the Judicial Council and include a completed *Request for Reimbursement of Extraordinary Homicide Trial Costs* form.

Rule 6.711 adopted effective January 1, 2005.

Rule 6.45. Judicial Branch Budget Advisory Committee

(a) [Area of focus] ~~The Judicial Branch Budget Advisory Committee advises the Judicial Council and the Administrative Director of the Courts on the preparation and development of, advocacy for, and implementation of the budget for the judicial branch and the relation of the budget to the strategic plan. The committee is not involved in budget management but provides high-level tactical and process advice. For purposes of this rule, the budget of the judicial branch consists of the budgets for the Supreme Court, the Courts of~~

~~Appeal, the superior courts, the Judicial Council, and the Administrative Office of the Courts. For purposes of this rule, the budget of the judicial branch does not include the budgets of the Commission on Judicial Performance and the Habeas Corpus Resource Center.~~

~~(b) **[Membership]** The committee consists of no more than nine members appointed as follows:~~

- ~~(1) One or two appellate court justices;~~
- ~~(2) Three superior court judges, at least one of whom is from a court with fewer than 20 judges and two of whom are either present or recent presiding judges or judges with knowledge of, and experience and interest in public finance;~~
- ~~(3) One appellate court clerk/administrator, who should not be from the same district as any of the appellate court justices;~~
- ~~(4) Three superior court executives none of whom should be from the same court as any of the superior court judges.~~

~~(c) **[Membership recommendations]** In addition to the procedure provided by rule 6.32, the following groups may make recommendations to the Executive and Planning Committee concerning membership:~~

- ~~(1) The Administrative Presiding Justices Advisory Committee for the appellate court justices and the appellate court clerk/administrator;~~
- ~~(2) The Trial Court Presiding Judges Advisory Committee for the superior court judges; and~~
- ~~(3) The Conference of Court Executives for the superior court executives.~~

~~(d) **[Duties and responsibilities]** The committee provides advice and advocacy to ensure that the judicial branch budget as developed and adopted is consistent with Judicial Council goals. In carrying out this duty, the committee must:~~

- ~~(1) Provide recommendations to the Judicial Council on budget priorities to guide the development of the budget for the fiscal year presently being developed. The committee considers all relevant factors including:~~
 - ~~(A) Recommendations from other advisory committees on budget priorities;~~

- ~~(B) Recommendations from the trial and appellate courts;~~
 - ~~(C) Input from the members of the public, including any designated trial court employee representative;~~
 - ~~(D) The fiscal condition of the state;~~
 - ~~(E) Other factors and trends affecting the judicial system and the state;
and~~
 - ~~(F) The progress of the courts and other judicial branch agencies in meeting the goals established by the Judicial Council.~~
- ~~(2) Make recommendations, as appropriate, on budget policies and procedures to the Judicial Council and the Administrative Office of the Courts.~~
 - ~~(3) Work with the Judicial Council and the Administrative Director of the Courts in advocating for the budget through the executive and legislative processes.~~
 - ~~(4) Further participate in the budget development process, as directed by the Administrative Director of the Courts.~~

Former Rule

Rule 6.45 repealed effective January 1, 2005; repealed and adopted effective January 1, 2002; previously amended effective January 1, 2004. The former rule related to the Judicial Branch Budget Advisory Committee.

California Standards of Judicial Administration

Section 6.5. Habeas corpus petitions unrelated to appellate district

~~A Court of Appeal should ordinarily deny, without prejudice, a petition for a writ of habeas corpus that is based primarily on facts occurring outside the appellate district. These include petitions that question (1) the validity of judgments or orders of trial courts located outside the appellate district, and (2) conditions of confinement or the conduct of correctional officials outside the appellate district. When a petition is denied solely on this basis, the order should so state and indicate the appropriate court in which to file the petition.~~

Section 6.5. [Repealed 2005]

Section 6.5 repealed effective January 1, 2005; adopted effective January 1, 1985. The repealed section related to habeas corpus petitions unrelated to appellate district.

Section 20. Guidelines for appointment of counsel in criminal appeals

- ~~(a) [General] Each appellate court, when establishing and maintaining lists of qualified counsel for appointment in criminal appeals as required by rule 76.5, should follow the guidelines in this section to match each appointed attorney's skills and experience with the demands of the case.~~

~~Before appointment of counsel in a case, the court should determine the demands of the case by reviewing the trial court file or by other appropriate means. In determining the demands of the case, the following factors should be considered: the length of the sentence; the novelty or complexity of the issues; the length of the trial and of the reporter's transcript; and any questions relating to the competency of trial counsel.~~

- ~~(b) [Courts of Appeal] Each Court of Appeal should maintain three lists of qualified attorneys. The lists should be based on the following minimum qualifications:~~

~~*List I (For appointment to cases in which probation was granted, or the sentence is five years or less in state prison):*~~

- ~~(1) active membership in the State Bar;~~
- ~~(2) attendance at one approved appellate training program;~~
- ~~(3) participation in one trial or appellate brief; and~~
- ~~(4) submission of one sample of the attorney's writing for review by the court or administrator.~~

~~*List II (For appointment to cases in which the sentence is five years to fifteen years in state prison):*~~

- ~~(1) active practice of law for 18 months in the California state courts or equivalent experience;~~
- ~~(2) attendance at two approved appellate training programs;~~

~~(3) completion of two appellate cases; and~~

~~(4) submission of two appellant's opening briefs written by the attorney, for review by the court or administrator.~~

~~List III (For appointment to cases in which the sentence is fifteen years to life in state prison):~~

~~(1) active practice of law for three years in the California state courts or equivalent experience;~~

~~(2) attendance at two approved appellate training programs;~~

~~(3) completion of five appellate cases; and~~

~~(4) submission of two appellant's opening briefs written by the attorney, for review by the court or administrator.~~

~~(e) [Supreme Court] The Supreme Court should maintain a list of attorneys for appointment in death penalty cases, based on the following minimum qualifications:~~

~~(1) active practice of law for four years in the California state courts or equivalent experience;~~

~~(2) attendance at three approved appellate training programs, including one program concerning the death penalty;~~

~~(3) completion of seven appellate cases, one of which involves a homicide; and~~

~~(4) submission of two appellant's opening briefs written by the attorney, one of which involves a homicide, for review by the court or administrator.~~

Section 20. [Repealed 2005]

Section 20 repealed effective January 1, 2005; adopted effective January 1, 1985. The repealed section related to guidelines for appointment of council in criminal appeals.